

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Determination of Additional Critical Habitat for the Inyo Brown Towhee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: In the previous document in this part of today's **Federal Register**, the Service determined the Inyo brown towhee (*Pipilo fuscus eremophilus*) to be a threatened species with critical habitat. As described in that rule, the Service received comments from the State of California that additional areas in the range of the bird (Argus Mountains, Inyo County, California) should be determined as critical habitat. The Service seeks additional comments on these supplementary areas.

DATES: Comments from all interested parties must be received by October 2, 1987. Public hearing requests must be received by September 17, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-1823, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Dr. Kathleen E. Franzreb at the above ADDRESSES (916-978-4866 or FTS 460-4866).

SUPPLEMENTARY INFORMATION:**Background**

In the rule published today the Service determined the Inyo brown towhee to be a threatened species with critical habitat. For further information on the comments and discussion over the purpose and effects of that rule and this proposal, see that document. This proposed rule would add one new area and supplement several of those determined today to be critical habitat. A list of the areas proposed to be added is provided under the Critical Habitat Section of that document. This proposal would revise 50 CFR 17.95(b) by combining the list of proposed new areas with those areas determined in today's **Federal Register** to be critical habitat. Maps showing these combined areas would be published if a decision is made to adopt the proposed additional critical habitat areas.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal for additional critical habitat for the Inyo brown towhee are hereby solicited. Comments particularly are sought concerning:

- (1) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;
- (2) Additional information concerning the range and distribution of this species;
- (3) Current or planned activities in the subject area and their possible impacts on this species; and
- (4) Any foreseeable economic and other impacts resulting from the proposed designation of the additional critical habitat.

Final promulgations of these regulations for the Inyo brown towhee critical habitat will take into consideration the comments and additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Sacramento Endangered Species Field Station (see **ADDRESSES** section).

National Environmental Policy Act

See statement in the aforementioned rule published in today's **Federal Register**.

Regulatory Flexibility Act and Executive Order 12291

See statement in the aforementioned rule published in today's **Federal Register**.

Author

The primary author of this proposed rule is Dr. Kathleen E. Franzreb (see **ADDRESSES** above).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[REVISED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to revise the critical habitat for the Inyo Brown Towhee at § 17.95(b) to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

• * * *

(b) Birds.

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Inyo Brown Towhee (*Pipilo fuscus eremophilus*)

California, Inyo County: lands within and adjacent to the China Lake Naval Weapons Center, identified (names of features from 1982 and 1983 Provisional Editions 7.5' USGS quadrangles for this area) as follows:

(1) Approximately 3.7 miles of stream and 1/8 mile on either side of the wash commencing along the streambed 1/8 mile south of a spring in W 1/2 NE 1/4 sec. 8, T. 23, S., R. 42, E., and continuing along the streambed northeasterly to Margaret Ann Spring, thence easterly and downstream in Water Canyon to longitude 117° 25' W. The above includes portions of secs. 2, 3, 4, 5, 8, 9, 10, and 11, T. 23, S., R. 42, E.

(2) Approximately 3.3 miles of streambed and 1/8 mile on either side of the wash commencing at the western boundary of NE 1/4 of Section 21 (at the point nearest to the NW corner of SW 1/4 NE 1/4, Section 21), T23S R42E, thence proceeding downstream past Ruby Spring, Section 22, to the boundary between Sections 25 and 26. The above includes portions of Sections 21, 22, 23, 25, and 26, T23S R42E.

(3) Approximately 2.8 miles of streambed and 1/8 mile on either side of the larger wash within Homewood Canyon commencing at the western boundary (at the point nearest to its midpoint) of Section 28, T23S R42E, and extending past Quail Spring downstream to a point along the streambed 1/8 mile southeast of Benko Spring (T23S R42E, Sections 34 and 35); approximately 1.2 miles of streambed and 1/8 mile on either side of the wash commencing at the western boundary of E 1/2 NE 1/4 of Section 33 (at the point nearest to the SW corner of NE 1/4 NE 1/4, Section 33) and extending easterly past Parson's Spring to Homewood Canyon; approximately 0.8 mile of streambed and 1/8 mile on either side of the wash commencing at the northern boundary of Section 28 (at the point nearest to its midpoint) and extending southeasterly and downstream to Homewood Canyon; and approximately 0.5 mile of streambed and 1/8 mile on either side of the wash commencing at the western boundary of Section 27 (at the

point nearest to the SW corner of NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 27), and proceeding easterly to Homewood Canyon. The above includes portions of Sections 21, 27, 28, 33, 34, and 35, T23S R42E.

(4) T23S R42E, E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 31 and W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 32, T24S R42E, E $\frac{1}{2}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 6 and W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 5.

(5) T24S R42E, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 2 and NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 3.

(6) Approximately 2.5 miles of streambed and $\frac{1}{8}$ mile on either side of Great Falls Basin Wash commencing at the western boundary of Section 11 (at the point nearest to and south of the NW corner of section 11), T24S R42E, and proceeding southwestly and downstream to the eastern boundary of R42E; and approximately 0.8 mile of streambed and $\frac{1}{8}$ mile on either side of the unnamed wash commencing at a point $\frac{1}{8}$ mile upstream of Deep Canyon Spring (near the SE corner of Section 10) and proceeding eastward along the streambed to Great Falls Basin Wash. The above includes portions of Sections 10, 11, 12, 13, 14, and 15, T24S R42E.

(7) Circles with $\frac{1}{8}$ mile radii around Austin and Mumford Springs in Section 7, T24S R43E.

(8) In Section 18, T24S R42E, a $\frac{1}{8}$ mile radius around Bainter Spring and thence continuing downstream along the wash

approximately 0.5 mile from the spring to longitude 117°22'20" W, including $\frac{1}{8}$ mile on either side of this wash.

(9) Approximately 1.2 miles of streambed and $\frac{1}{8}$ mile on either side of Indian Joe Canyon commencing $\frac{1}{8}$ mile upstream of Indian Joe Spring in Section 24, T24S R42E, and proceeding southeasterly along the streambed to the southern boundary of Section 24. The above includes portions of Sections 24 and 25, T24S R42E.

(10) Approximately 5.7 miles of Mountain Springs Canyon main streambed and $\frac{1}{8}$ mile on either side commencing at eastern boundary of SW $\frac{1}{4}$ Section 12, T23S R41E, and proceeding westerly along the streambed to the western boundary of NE $\frac{1}{4}$ Section 18; approximately 0.8 mile of streambed and $\frac{1}{8}$ mile on either side of the wash commencing at the southern boundary of the SW $\frac{1}{4}$ of Section 4 and continuing southerly through Sections 9 and 8 to the intersection with the main wash in Mountain Springs Canyon; approximately 0.5 mile of streambed and $\frac{1}{8}$ mile on either side of the wash commencing at the southern boundary of NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10 (at the point nearest the upper Mammoth Mine) and continuing downstream to the main wash; approximately 0.8 mile of streambed and $\frac{1}{8}$ mile on either side of the wash commencing at the eastern boundary of Section 15 at a point just south of the

midpoint of that boundary, and proceeding north along the streambed to Mountain Springs Canyon; and approximately 0.5 mile of streambed and $\frac{1}{8}$ mile on either side of the wash commencing at the southern boundary of N $\frac{1}{2}$ Section 14 (at the point nearest to the midpoint of Section 14) and proceeding north along the streambed to the main wash. The above includes portions of Sections 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 17, and 18, T23S R41E.

(11) Approximately 4.2 miles of streambed and $\frac{1}{8}$ mile on either side of the wash commencing at the southern boundary of N $\frac{1}{2}$ Section 23 (at the point nearest to the midpoint of Section 23), T23S R41E, and proceeding southerly along the streambed to a point $\frac{1}{8}$ mile downstream from the spring in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3, T24S R41E. The above includes portions of Section 3 and 4, T24S R41E; and Sections 23, 26, 27, 34, and 35, T23S R41E.

Major constituent element: desert riparian scrub vegetation.

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Dated: June 22, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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